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March 24, 2016

***VIA ECFS AND FIRST CLASS MAIL***

Preston County Commission  
Preston County Court Annex  
106 West Main Street, Suite 202  
Kingwood, WV 26537

*Re: STELAR Feasibility Certification, Market Modification Pre-Filing Coordination Letter  
for Preston County, West Virginia, MB Docket No. 15-71*

To:  
T. Craig Jennings, President  
Dave Price, Commissioner  
Don Smith, Commissioner

DISH Network L.L.C. ("DISH") is in receipt of your pre-filing coordination letter ("Letter"),<sup>1</sup> pursuant to the procedures set forth in the Federal Communications Commission's ("FCC") rules governing market modifications for satellite carriers under the STELA Reauthorization Act of 2014 ("STELAR").<sup>2</sup>

The Letter requests information regarding carriage of local broadcast stations from the Clarksburg, West Virginia designated market area into Preston County. The attached Feasibility Certification pursuant to 47 C.F.R § 76.59(e) reflects DISH's response to the Letter.

Please contact me if you have any questions.

Sincerely,

/s/ Alison Minea

Alison Minea  
Director & Senior Counsel, Regulatory  
Affairs

Attachment: Feasibility Certification Pursuant to 47 C.F.R. § 76.59(e)

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<sup>1</sup> Letter from Preston County Commission to Alison A. Minea, DISH, December 19, 2016.

<sup>2</sup> See Amendment to the Commission's Rules Concerning Market Modification, Implementation of Section 102 of the STELA Reauthorization Act of 2014, *Report and Order*, MB Docket No. 15-71, FCC 15-111, ¶ 47 (Sept. 2, 2015) ("*Market Modification Order*"). See also STELA Reauthorization Act of 2014 (STELAR), § 102, Pub. L. No. 113-200, 128 Stat. 2059, 2060-62 (2014) (codified at 47 U.S.C. § 338(l)).

**FEASIBILITY CERTIFICATION PURSUANT TO 47 C.F.R § 76.59(e)**

1. This Feasibility Certification is issued by DISH Network L.L.C. (“DISH”) pursuant to the pre-filing coordination procedures contained in the Federal Communications Commission’s (“FCC”) Order<sup>1</sup> governing market modifications for satellite carriers under the STELA Reauthorization Act of 2014 (“STELAR”).<sup>2</sup>
2. This Feasibility Certification responds to the letter (“Letter”) dated December 19, 2016 from the Preston County Commission requesting information regarding carriage of local broadcast stations from the Clarksburg, West Virginia designated market area (“DMA”) into Preston County (the “County”).
3. DISH provides the high definition (“HD”) Clarksburg local broadcast stations (“Clarksburg Locals”) from a spot beam on a satellite located at the 61.5° W.L. orbital slot, and provides the standard definition (“SD”) Clarksburg Locals from a spot beam on a satellite located at the 129° W.L. orbital slot.
4. The ability of an individual DISH subscriber in the County to receive the Clarksburg Locals from DISH depends on, among other things, how the subscriber’s individual satellite antenna was originally installed and pointed, and whether that subscriber is predicted to have adequate spot beam coverage from the satellite that carries the stations.
5. In general, a DISH customer’s satellite antenna, when installed, is pointed so that it can receive satellite signals from specific orbital slots. Receiving service from orbital slots not planned for in the original equipment installation at the subscriber’s home typically would require DISH to send a truck and technician to adjust equipment or install different equipment, which would impose a very substantial cost burden on DISH.
6. The relevant spot beams from the two satellites that carry both the HD and SD Clarksburg Locals adequately cover the County. But, not all DISH subscribers in the County will be able to receive the Clarksburg Locals with their currently installed satellite dishes and set-top boxes (“STBs”).
7. Only approximately 60 percent of DISH subscribers in the County could receive the HD version of the Clarksburg Locals with their current satellite dish and STB(s). Approximately 20 percent of DISH’s subscribers in the County could receive the SD version of the Clarksburg Locals with their current satellite dish and STB(s), but would require a service call and different STB(s) in order to receive the HD Clarksburg Locals. And approximately 20 percent of DISH’s subscribers in the County would require a service call, a different satellite dish antenna, and different STB(s) in order to receive

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<sup>1</sup> Amendment to the Commission’s Rules Concerning Market Modification, Implementation of Section 102 of the STELA Reauthorization Act of 2014, Report and Order, MB Docket No. 15-71, FCC 15-111, ¶ 47 (Sept. 2, 2015) (“*Market Modification Order*”).

<sup>2</sup> STELA Reauthorization Act of 2014 (STELAR), § 102, Pub. L. No. 113-200, 128 Stat. 2059, 2060-62 (2014) (codified at 47 U.S.C. § 338(l)).

either the HD or SD Clarksburg Locals. Requiring DISH to send a truck and technician to adjust equipment or install different equipment for any of the 40 percent of DISH subscribers in the County that cannot receive the HD Clarksburg Locals, or either the SD or HD Clarksburg Locals, would impose a very substantial cost burden on DISH.

8. In addition, DISH would need to parse its subscribers in the County into different groups depending on whether they receive service calls and equipment changes to enable them to receive the Clarksburg Locals. DISH would need to make, among other things, operational and billing changes in an attempt to manage these different cases. And attempting to target the provision of the Clarksburg Locals to the subset of DISH subscribers in the County who might be able to receive them would cause customer confusion and frustration. For example, one DISH subscriber might be able to receive the Clarksburg Locals while her neighbor could not. This, in turn, could lead to a poor customer service experience and a burden on DISH if a subscriber requested to have a technician sent to install equipment at DISH's expense in order to receive service from a different orbital location.
9. As a result, DISH has determined that it would be, at least, both "technically infeasible" and "economically infeasible" pursuant to 47 C.F.R. § 76.59(e) for DISH to provide the Clarksburg Locals to the approximately 20 percent of the County that cannot receive either the HD or SD versions of the Clarksburg Locals with their current equipment. In addition, it would be, at least, "economically infeasible" pursuant to 47 C.F.R. § 76.59(e) for DISH to accommodate customer requests for service visits and equipment upgrades for subscribers desiring to receive HD Clarksburg Locals when they could otherwise receive only the SD Clarksburg Locals.
10. To the extent that a Clarksburg, WV local broadcast station impacted by a market modification elects retransmission consent with respect to DISH for carriage of its station in the County, DISH cannot be certain whether it will be able to successfully reach an agreement with the station. If DISH is unable to reach a retransmission consent agreement with a given station, it will be impossible for DISH to provide that station's signal into the County. If any one of the Stations were to deny DISH the right to retransmit its signal into the County, it may be either technically or economically infeasible,<sup>3</sup> or both, for DISH to launch a customer offering with only the remaining stations that did grant retransmission consent.
11. As DISH noted in its comments during the development of the market modification rules,<sup>4</sup> an FCC grant of a market modification could result in, among other things, two different stations affiliated with the same broadcast network being authorized for satellite local-into-local carriage in the County. This could result in DISH being required to pay retransmission consent fees twice for the same broadcast network. Therefore, we must reserve the right to charge additional fees to subscribers in the County who elect to

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<sup>3</sup> See 47 C.F.R. § 76.59(e).

<sup>4</sup> Comments of DISH Network L.L.C. at 9, MB Docket No. 15-71 (May 13, 2015).

receive any Clarksburg, WV local broadcast stations that DISH may be authorized to offer as a result of any market modification.

12. Without the ability to offset the additional costs associated with a market modification, it would be "economically infeasible" pursuant to 47 C.F.R. § 76.59(e) for DISH to comply with a market modification ordered by the FCC consistent with the request described in the Letter.
13. DISH reserves the right to amend this Feasibility Certification at any time due to, among other things, a satellite equipment failure or a different satellite or satellites being brought into service for the area that includes the Counties which has different coverage capabilities than the satellites currently being used.

The foregoing has been prepared using facts of which I have personal knowledge or upon information provided to me. I certify under penalty of perjury that the foregoing is true and correct to the best of my current knowledge, information, and belief.



Alison Minea  
DISH Network L.L.C.

Executed on March 24, 2017